

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**

R3-2-801 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 3-107(A)(1), 3-603

Implementing statutes: A.R.S. §§ 3-601.01, 3-603, 3-605, 3-606, 3-611, 3-625, 3-663
- 3. The effective date of the rule:**

Sixty days after the rules are filed in the office of the Secretary of State.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Docket Opening: 13 A.A.R. 4044, November 16, 2007; and

Notice of Proposed Rulemaking: 13 A.A.R. 3966, November 16, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Carlos Ramírez, Rules Analyst

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- 6. An explanation of the rule, including the agency's reasons for initiating the rules:**

The Department of Agriculture is proposing to amend its definitions relating to dairy and dairy products control rules following a five-year review. Under this rulemaking, the Department will

update citations to materials that are incorporated by reference to their most recent revisions, and otherwise bring the rule into compliance with current Administrative Procedures Act standards.

- 7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

- 9. The summary of the economic, small business, and consumer impact:**

The proposed rulemaking will not create a significant economic impact to the Department, other political subdivisions, businesses, or to state revenues. The Department believes that the benefits of the proposed rulemaking outweigh any costs and that there are no alternative methods of achieving the objective of the proposed rulemaking.

- 10. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):**

The Department's original proposal was to update the incorporated reference to the 2003 Pasteurized Milk Ordinance to the forthcoming 2007 revision. However, this revision has been delayed. Instead, the Department will update the incorporated materials to the existing 2005 revision. The Department does not believe this will result in a substantive impact. The Department will also maintain the USDA website address where the document can be retrieved in the definition for "PMO" in compliance with ARS § 41-1028. The Department will also make nonsubstantive grammatical changes suggested by the Department's Assistant Attorney General and GRRC staff.

- 11. A summary of the comments made regarding the rule and the agency response to them:**

The Department has not received any comments regarding the proposed rulemaking.

- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**13. Incorporations by reference and their location in the rules:**

Under the definition for “PMO,” the rule incorporates the 2003 revision of the Grade “A” Pasteurized Milk Ordinance, made in 1978 by the US Public Health Service/Food and Drug Administration. This reference will be amended to refer instead to the more recent 2005 revision.

**14. Was this rule previously made as an emergency rule?**

No

**15. The full text of the rule follows:**

**TITLE 3. AGRICULTURE**

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**ANIMAL SERVICES DIVISION**

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL**

Section

R3-2-801. Definitions

## ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

### R3-2-801. Definitions

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, amended May 31, 2002, means the criteria for cleanability of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W Adams St, Phoenix AZ 85007 and ~~the USDA~~ web site: ~~http://www.efsa.fda.gov/~ear/pmo03toc.html~~ is also available at http://www.3-A.org.

"C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

"Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates milk, lowfat milk, chocolate milk, half and half, or cream.

"Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

"Grade A raw milk" means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

"Parlor" and "milk room" mean the facilities used for the production of Grade A raw milk for pasteurization.

"Plant" means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

"Manufacturing plant" means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

"Handling plant" means a location that is not equipped or used to manufacture, process, pasteurize, or convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.

"Plate line" means a horizontal structural member, such as a timber, that provides the bearing and anchorage for the trusses of a roof or the rafters.

"PMO" means the Grade A Pasteurized Milk Ordinance - 1978 Recommendations of the United States Public Health Service/Food and Drug Administration, ~~2003~~ 2005 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the USDA web site: <http://www.cfsan.fda.gov/~car/pmo03toc.html> at 1688 W Adams St, Phoenix AZ 85007 and the Department of Health and Human Services, Public Health Services, Food and Drug Administration, Dairy and Egg Branch (HFS-316), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

"Retail food store" means any establishment offering packaged or bulk goods for human consumption for retail sale.